

NOV 15 2010

LUC-463/Barclay 12-10-6-9-12-2

10/768,431

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE****Patent Application**

Inventor(s): Deborah L. Barclay et al.
Case No.: LUC-463/Barclay 12-10-6-9-12-2 **Examiner** Olumide A. Akonai
Serial No.: 10/768,431 **Art Unit:** 2617
Filing Date: 1/30/2004
Title: DETERMINATION TO REQUEST MOBILE STATION POSITION
THROUGH EMPLOYMENT OF CALL CHARACTERISTICS

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being sent via facsimile transmission to Commissioner for Patents, Mail Stop Amendment, Group Art Unit 2617, Attention: Examiner Olumide A. Akonai, P.O. Box 1450, Alexandria, VA 22313-1450, at fax number (571) 273-8300, on November 15, 2010.



James Milton
Attorney for Applicants
Reg. No. 46,935

Date of Signature: November 15, 2010

Commissioner for Patents
Mail Stop Amendment
Group Art Unit 2617
Attention: Examiner Olumide A. Akonai
P.O. Box 1450
Alexandria, VA 22313-1450
Fax Number (571) 273-8300

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicants request review of the final rejection of this application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated on the attached sheets.

LUC-463/Barclay 12-10-6-9-12-2

10/768,431

REMARKS

Claims 1-20 and 22-26 are pending in the application. Claims 1-17 and 22-26 were rejected under 35 U.S.C. § 101. Claims 1, 18 and 24 were rejected under 35 U.S.C. § 102 (b). Claims 2-17, 19-20, 22-23 and 25-26 were rejected under 35 U.S.C. § 103(a). Claims 7-8 were objected to.

Claim Objections

Claims 7-8 were objected to because of an alleged informality involving the use of the word "exceedance".

Applicants respectfully traverse this objection.

Applicants assert that those of ordinary skill in the art would be knowledgeable of the word "exceedance". "Exceedance" is defined as the amount by which something exceeds a standard or permissible measurement.

In view of the foregoing, applicants respectfully request the objection to the claims be withdrawn.

Rejection Under 35 U.S.C. § 101

Claims 1-17 and 22-26 were rejected under 35 U.S.C. § 101 because the Examiner alleges that the claimed invention is directed to non-statutory subject matter based on the limitation of a biological data storage medium recited in claim 1.

Applicants respectfully traverse this ground of rejection.

In the rejection, the Examiner mentions biological medium such as plants, water, etc. However, applicants' claim 1 does not recite biological medium. Applicants' claim 1 recites a biological data storage medium. Biological data storage medium refers to biological material that records the polarization of light. Applicants assert that those of ordinary skill in the art would be knowledgeable of the term "biological data storage medium". Thus, the term "biological data storage medium" is statutory subject matter.

Rejection Under 35 U.S.C. § 102 (b)

Claims 1, 18 and 24 were rejected under 35 U.S.C. § 102 (b) as being anticipated by U. S. Patent Application Number 2002/0025824 issued to Lin.

LUC-463/Barclay 12-10-6-9-12-2

10/768,431

Applicants respectfully traverse this ground of rejection for the following reasons.

First, applicants' claim 1 recites,

"a network component operable to employ a) one or more call characteristics to make a determination to initiate a request to a switch component for one or more positions of one or more mobile stations and b) one or more call parameters to identify one or more cellular network cells associated with the one or more mobile stations, wherein at least one of the one or more call parameters employed to identify one of the one or more cellular network cells is a telephony number of at least one of the one or more mobile stations; and

wherein the network component is operable to receive, in response to the request, the one or more positions of the one or more mobile stations from a position component operable to determine the one or more positions of the one or more mobile stations continuously; and

wherein the network component comprises one of a magnetic data storage medium, an optical data storage medium, a biological data storage medium, or an atomic data storage medium."

Applicants acknowledge that Lin discloses HLR 34 and VLR 35 which are used to store location related data of a mobile station, as stated in paragraphs 0006 and 0039. However, Lin does not disclose the type of storage. Although not stated, applicants note that such storage devices could be electrical. By contrast, applicants' claim 1 recites "the network component comprises one of a magnetic data storage medium, an optical data storage medium, a biological data storage medium, or an atomic data storage medium". Lin does not disclose any of these types of storage media. Thus, Lin is missing the elements of applicants' claim 1.

Second, Lin does not teach "a position component operable to determine the one or more positions of the one or more mobile stations continuously", as recited in applicants' claim 1. Instead, Lin discloses that the location updating procedure is performed periodically through a control channel of the cellular network, as stated in paragraph 0032. Also, a mobile station transmits the user's precise position generated by the position data producer to a base station periodically, as stated in paragraph 0033. Thus, Lin is missing "wherein the network component is operable to receive, in response to the request, the one or more positions of the one or more mobile stations

LUC-463/Barclay 12-10-6-9-12-2

10/768,431

from a position component operable to determine the one or more positions of the one or more mobile stations continuously" elements, as recited in applicants' claim 1.

Applicants note that the Examiner has cited paragraph 0073 to reject the "continuously" limitation. However, Lin's position data of the mobile station is available and continuously transmitted via a cellular handset only when the handset is powered on. See paragraphs 0032 and 0073. Again, Lin is missing "wherein the network component is operable to receive, in response to the request, the one or more positions of the one or more mobile stations from a position component operable to determine the one or more positions of the one or more mobile stations continuously" elements, as recited in applicants' claim 1.

In view of the foregoing, applicants submit that Lin does not describe each and every element of claim 1, and therefore claim 1 is not anticipated by Lin. Since claims 2-14, 16-17 and 22-26 depend from allowable claim 1, these claims are also allowable.

Independent claim 18 has limitations similar to that of independent claim 1, which, as shown above, is not taught by Lin. For example, claim 18 recites, "wherein the network component comprises one of a magnetic data storage medium, an optical data storage medium, a biological data storage medium, or an atomic data storage medium" and "determining the one or more positions of the one or more mobile stations continuously". Lin does not teach these limitations for the above-mentioned reasons. Therefore, claim 18 is likewise allowable over Lin. Since claims 19-20 depend from claim 18, these dependent claims are also allowable over Lin.

Rejections Under 35 U.S.C. § 103 (a)

Claims 2-17, 19-20, 23 and 25 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Lin in view of U. S. Patent Number 6,266,514 issued to O'Donnell.

Claim 22 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over Lin in view of O'Donnell as applied to claim 16, and further in view of U.S. Patent Number 6,233,448 issued to Alperovich et al.

Claim 26 was rejected under 35 U.S.C. § 103 (a) as being unpatentable over Lin in view of O'Donnell as applied to claim 4, and further in view of U.S. Patent Number 6,832,086 issued to Powers.

NOV 15 2010

LUC-463/Barclay 12-10-6-9-12-2

10/768,431

Applicants respectfully traverse these grounds of rejection.

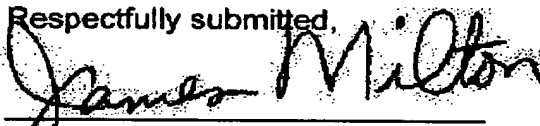
These rejections are based on the rejection under 35 U.S.C. § 102 (b) being proper. As that ground of rejection has been overcome, and none of the cited references teach or suggest "wherein the network component comprises one of a magnetic data storage medium, an optical data storage medium, a biological data storage medium, or an atomic data storage medium", as recited in applicants' independent claims 1 and 18, the proposed combinations of Lin, O'Donnell, Alperovich and Powers does not supply these missing elements. Thus, these combinations do not make obvious any of applicants' claims, all of which require the aforesaid limitation.

Conclusion

In view of the above remarks, withdrawal of the rejections and/or reversal of the rejections of all claims pending is respectfully requested.

If a telephone conference would be of assistance in advancing the prosecution of this application, feel free to call applicants' attorney.

Respectfully submitted,



James Milton
Attorney for Applicants
Reg. No. 46,935

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CARMEN PATTI LAW GROUP, LLC
Customer Number 47382
(312) 346-2800